

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MUCHMORE'S CAFE, LLC,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.
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Civil Action No. 14-cv-5668 RRM-RER

**AFFIDAVIT OF
PEDRO GIRAUDO**

PEDRO GIRAUDO, being duly sworn, states the following under penalty of perjury:

1. I am not a party to this action. I am a professional musician residing in Jersey City, New Jersey.
2. I perform primarily within the City of New York. I am originally from Córdoba Argentina, moving to New York City in 1996. I submit this Affidavit in support of the application of Muchmore's Cafe, LLC ("Muchmore's") for a judgment declaring the New York City Cabaret Law to be unconstitutional.
3. For many years, I have worked as a professional musician in New York City, primarily in the genres of tango, Latin music and Jazz. I have collaborated with artists such as Grammy Award winners Pablo Ziegler and Paquito D'Rivera. Most recently, my work on the 2014 "Tangos" recording with Ruben Blades won two Grammy awards. I have performed in many countries from all parts of the world and have been commissioned for compositions for string orchestra. My tango orchestra was selected by Lincoln Center in July to play the largest NYC public tango dance event in 2015 to be held at Midsummer Night Swing next to the Metropolitan Opera house. As an Argentinian, I have a special affinity for tango and folk music, and indeed express my affinity for tango not just in my playing and composition, but also as a social tango dancer. Most tango and salsa musicians (like the music they play) have Latin American origins. Tango and Latin music is inherently dance music and in live performance, a special pleasure for me is the interaction between musicians and dancers on the floor,

and the quality and expressiveness of the music is definitely inhibited when there are no dancers expressing the music through their bodies and then the musicians responding.

4. I understand that under the Cabaret Law, a cabaret is defined as "Any room, place or space in the city in which any musical entertainment, singing, dancing or other form of amusement is permitted in connection with the restaurant business or the business of directly or indirectly selling to the public food or drink, except eating or drinking places, which provide incidental musical entertainment, without dancing, either by mechanical devices, or by not more than three persons." I also understand that only a tiny number of establishments in New York City have a Cabaret License.

5. As a musician working within these genres, this makes my life and career exceedingly difficult and inhibits my artistic expression. "Tango" can mean either the dance or the music, and no distinction is drawn because no distinction exists. When an established tango musician is performing, and people are present who like tango music, it is virtually inevitable that people will dance. This applies to salsa equally. This is because most people attracted to these genres dance. Thus, if a venue does not allow dancing, and I am allowed to play at all, the audience who will come and pay to hear me is substantially reduced. In addition, I also often have a tango dance couple perform to my live music, but this causes fears among venue owners that customers will be even more likely to dance dance.

6. People who like tango and salsa music have very few options in this City. Most bars and restaurants appear unwilling to host tango or salsa music because they know people would dance, and their businesses and livelihoods could be jeopardized. Of the few places that hold Cabaret Licenses, I understand that a large proportion are places like strip clubs and discotheques that are not interested in or appropriate for hosting live tango or salsa music. In areas of the City where there are large Latin populations, there are effectively no establishments with cabaret license for live merengue (Dominicans), salsa (Puerto Ricans), and samba (Brazilians) music, definitely dance music, which obviously is a limitation on the artistic expression of those musicians.

7. Virtually all the establishments that host live music in New York City that I am aware of

do so in connection with the bar or restaurant business. The music business is notoriously difficult from a financial perspective, and New York City rents are notoriously expensive. In my experience, places that host live music rely on food and beverage sales to be able to stay in business. For any revenues that are generated from ticket sales, the venues generally take out a percentage to cover "house costs" like security and sound engineers, with whatever modest sums are left-over (if any) going to the musicians.

8. If music-hosting venues were required to hire an army of security guards to immediately stop anyone that starts to move rhythmically, the above business model simply would not work, unless perhaps the venues stopped paying musicians anything. Instead, most of them appear to simply avoid hosting genres of music such as tango and salsa. It is my understanding that Muchmore's, for example, does not host tango or salsa music. While I would be interested in organizing a performance there, and they have offered to host me if this lawsuit is successful, they have indicated to me that they cannot host such genres of music now because the Cabaret Law would make it too risky and expensive.

9. I fully support Muchmore's efforts to challenge the Cabaret Law. If the Court finds that Muchmore's cannot assert the First Amendment rights of tango and salsa musicians such as me, I would be open to the possibility of being added as plaintiff to address these issues.

Pedro Giraudo May 15 2015
Pedro Giraudo

Sworn to before me this
15th day of May 2015

[Signature]
Notary Public

MANUEL A COUGIL
Notary Public - State of New York
NO. 01C06315382
Qualified in New York County
My Commission Expires Nov 24, 2018